

1                   **IN THE UNITED STATES DISTRICT COURT**  
2                   **FOR THE EASTERN DISTRICT OF MISSOURI**  
                    **EASTERN DIVISION**

3       UNITED STATES OF AMERICA,           )  
  )  
4                               Plaintiff,       )  
  )  
5               vs.                               ) No. 4:18-cr-975-ERW  
  )  
6       DUSTIN BOONE and CHRISTOPHER       )  
      MYERS,                                    )  
7    ) June 17, 2021  
                             Defendants.       )

8  
9                               **JURY TRIAL DAY #9**  
10                   **BEFORE THE HONORABLE E. RICHARD WEBBER**  
                    **UNITED STATES DISTRICT JUDGE**

11                               **APPEARANCES**

12       **FOR PLAINTIFF**

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22       **REPORTED BY:**

Laura A. Esposito, RPR, CRR, CRC  
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25       (PRODUCED BY COMPUTER-AIDED MECHANICAL STENOGRAPHY.)

1           *(Proceedings convened in open court with the*  
2           *defendants and the jury present, at 9:05 a.m.)*

3           **THE COURT:** Good morning, ladies and gentlemen. Thank  
4 you for your prompt appearance this morning.

5           It is now your duty to go to the jury deliberation  
6 room on the ninth floor, and when you have reached your  
7 verdicts, notify the Court Security Officer outside. And  
8 it's going to take a little while for those of us to  
9 assemble here for your return but we shall do so as promptly  
10 as we can. We'll receive you when you have arrived at your  
11 verdict.

12          You may now retire to the jury room and deliberate and  
13 return your verdicts. Thank you.

14           *(Jury out.)*

15           **THE COURT:** I know that some of you need to be away  
16 from here and I'm always worried about if we get notes. I  
17 still insist that there be one attorney from each team  
18 remaining, available to come down quickly to address issues  
19 of notes, but -- and, I don't know, like for everyone to be  
20 here relatively soon after the jury comes down if you can  
21 work something out.

22          How long will it take if you go back to your offices?

23           **MR. ROSENBLUM:** Somewhere between 15 and 20 minutes,  
24 depending on traffic.

25           **MR. KILGORE:** Judge, my office is right at 10th and

1 Locust, but I plan on staying in the building or right  
2 around the building.

3 **THE COURT:** Okay.

4 **MR. ROSENBLUM:** I'll just have some work brought down  
5 to me.

6 **THE COURT:** Okay. All right. I appreciate it. That  
7 would be the best.

8 All right. Court's in recess, and we'll wait for  
9 return of the verdicts.

10 **(Court recessed.)**

11 **(Proceedings reconvened in open court with the**  
12 **defendants present.)**

13 **(Jury not present.)**

14 **THE COURT:** The note reads:

15 ""We are unable to come to a unanimous vote  
16 on either defendant."

17 **MS. COSTANTIN:** Judge, I guess the only question is if  
18 we should be reading an *Allen* charge or not at this time.

19 **MR. ROSENBLUM:** I would object to the *Allen* charge.  
20 And if the Court is inclined, I would ask the Court to bring  
21 the jury down and ask if -- not, obviously, what the split  
22 is, but if they believe further deliberations would move the  
23 needle at all.

24 **THE COURT:** I have -- I've never been in a position  
25 before where reading the *Allen* charge was a possibility. I

1 have it here just so there's no question that it is  
2 available. My concern is, it's basically telling them  
3 that -- sometimes called the "hammer instruction" -- to go  
4 back and do something else, which is not all together true.

5 There's -- some parts in this are pretty good. If  
6 they reach a verdict, it says:

7 "Remember that if, in your individual  
8 judgment, the evidence fails to establish  
9 guilt beyond a reasonable doubt, then the  
10 defendant should have your vote for a not  
11 guilty verdict. If all of you reach the same  
12 conclusion, then the verdict of the jury must  
13 be not guilty."

14 Of course, Allen applies:

15 "If, in your individual judgment, the  
16 evidence establishes guilt beyond a reasonable  
17 doubt, then your vote should be for a verdict  
18 of guilty, and if all of you reach that  
19 conclusion, then the verdict of the jury must  
20 be guilty. As I instructed earlier, the  
21 burden is upon the government" -- da-da-da.

22 I would prefer to have the jury brought down and  
23 explain that, in the event they are unable to reach a  
24 verdict, then it will be necessary for a retrial of this  
25 case. And they're in the best position, having seen all the

1 evidence, to make that decision. I'm going to invite them  
2 to go back to the jury room while lunch is -- it's being  
3 provided -- and, while they have lunch, to try again, if  
4 they can, to reach a unanimous verdict. And that would be  
5 what I would prefer to do, but I want to hear fully from  
6 everyone.

7 **MS. COSTANTIN:** Judge, I would just ask that the *Allen*  
8 charge be given, that Instruction 10.02 be given. There's a  
9 paragraph in there that says a version of what you just  
10 said, which is:

11 "There's no reason to think that another  
12 trial would be tried in a better way or a more  
13 conscientious, impartial, or competent jury  
14 would be selected to hear it. Any future jury  
15 must be selected in the same manner and from  
16 the same source as you. If you should fail to  
17 agree on a verdict, the case is left open and  
18 must be disposed of at some later time."

19 So I would just prefer that we stick with suggested  
20 Eighth Circuit instructions. Just ask that that be read to  
21 them, the entire 10.02, not just that paragraph.

22 **MR. ROSENBLUM:** I would object to any instruction at  
23 this point because of the danger of a forced verdict. This  
24 is the second jury that, on these two charges, have  
25 indicated they're unable to reach a verdict. I think that

1 we could -- I think the Court can have them in open court  
2 and ask whether or not further deliberations would result in  
3 a verdict, and let the foreman speak on behalf of the jury,  
4 and then go from there.

5 **THE COURT:** Okay. Well, I'm not sure. I'm not likely  
6 going to take that approach, but I'll bring the jury down.

7 **MR. ROSENBLUM:** I would say that if the Court is  
8 inclined to read a portion, I would join the request that  
9 they read -- that the Court would read the entire charge,  
10 but, again, I would ask that the Court show my objection to  
11 it.

12 **THE COURT:** Okay. All right. Well, I may read the  
13 entire charge. Okay. Bring them down.

14 *(The following proceedings were conducted with the*  
15 *defendants and the jury present:)*

16 **THE COURT:** I have a message that at this point you  
17 have been unable to reach a unanimous verdict on either  
18 defendant. Is that accurate?

19 **JUROR:** Yes.

20 **THE COURT:** Your lunch is -- am I correct, it's on its  
21 way up to the jury room? Okay.

22 I'm going to read to you one more instruction and ask  
23 that you return to the jury room, have lunch, and then  
24 consider this instruction:

25 As stated in my instructions, it is your duty to

1 consult with one another and to deliberate with a view of  
2 reaching agreement if you can do so without violence to your  
3 individual judgment. Of course, you must not surrender your  
4 honest convictions as to the weight or effect of the  
5 evidence solely because of the opinions of other jurors or  
6 for the mere purpose of returning a verdict. Each of you  
7 must decide the case for yourself, but you should do so only  
8 after consideration of all the evidence with your fellow  
9 jurors.

10 In the course of your deliberation you should not  
11 hesitate to re-examine your own views and change your  
12 opinion if you are convinced it is wrong. To bring twelve  
13 minds to unanimous result, you must examine the questions  
14 submitted to you openly and frankly, with proper regard for  
15 the opinions of others and with a willingness to re-examine  
16 your own views.

17 Remember that if, in your individual judgment, the  
18 evidence fails to establish guilt beyond a reasonable doubt,  
19 then defendant should have your vote for a not guilty  
20 verdict. If all of you reach the same conclusion, then the  
21 verdict of the jury must be not guilty. Of course, the  
22 opposite also applies. If in your individual judgment the  
23 evidence establishes guilt beyond a reasonable doubt, then  
24 your vote should be for a verdict of guilty, and if all of  
25 you reach that conclusion, then the verdict of the jury must

1 be guilty.

2 As I instructed you, earlier, the burden is on the  
3 government to prove, beyond a reasonable doubt, every  
4 element of the crimes charged.

5 Finally, remember that you are not partisans; you are  
6 judges, judges of the facts. Your sole interest is to seek  
7 the truth from the evidence. You are the judges of the  
8 credibility of the witnesses and the weight of the evidence.

9 You must conduct your deliberations as you choose, but  
10 I suggest that you carefully reconsider all of the evidence  
11 bearing upon the question before you. You may take all the  
12 time that you feel necessary to do so.

13 There is no reason to think that another trial would  
14 be tried in a better way or that a more conscientious,  
15 impartial, or competent jury would be selected to hear it.  
16 Any future jury must be selected in the same manner and from  
17 the same source as you. If you should fail to agree on a  
18 verdict, the case is left open and must be disposed of at  
19 some later time.

20 So, please go back now to further finish your  
21 deliberations, have lunch, in a manner consistent with your  
22 good judgment as reasonable persons.

23 And, so, I ask that you do so and fully understand how  
24 hard you have been working. I'm not suggesting you haven't  
25 worked hard enough. So, please go back and consider this



1 instruction, have lunch, and we'll hear from you later.

2 Thank you.

3 ***(Jury out.)***

4 **THE COURT:** Stand by and I'll keep everyone informed  
5 of any information that I receive.

6 ***(Court recessed.)***

7 ***(Proceedings reconvened in open court with the***  
8 ***defendants present.)***

9 ***(Jury not present.)***

10 **THE COURT:** Here is the question -- at this time it's  
11 a question:

12 "We have a question regarding Boone's  
13 special findings. When checking off the  
14 options, are we saying he 'aided and abetted'  
15 bodily injury or" -- then there's -- still  
16 have to look at it. There's like an "S" and a  
17 slash "or" -- "with a baton or he physically  
18 struck with the baton causing bodily injury?"

19 I'm going to answer the question, not necessarily as I  
20 state here because I want you to -- do you have a way to  
21 make several copies of this note?

22 **DEPUTY CLERK:** Yes.

23 **THE COURT:** Would you make half a dozen copies, or  
24 ten.

25 This language may very well be changed, but here's

1 where I conclude I will start:

2 "Only if you first find Defendant Boone  
3 guilty will you answer the first line" -- and  
4 that is, slashes, there's a line -- "bodily  
5 injury occurred. If you find bodily injury  
6 occurred, then you will" -- after the line --  
7 "the conduct included the use of a baton,  
8 weapon, to wit, a riot baton.

9 "But I don't expect you to respond until  
10 two things happen: You see the note and you  
11 examine this instruction."

12 **MS. COSTANTIN:** Yes, that's what I would ask.

13 **THE COURT:** Also have a bunch of copies made when she  
14 gets back.

15 **MS. COSTANTIN:** Thank you.

16 **(Break to make copies of the jury's note and**  
17 **distribute them to counsel.)**

18 **MS. COSTANTIN:** Judge, I have a proposal.

19 **THE COURT:** You might want to hold up until we get the  
20 second note, which is on its way down, I just found out  
21 about 60 seconds ago.

22 **(Deputy Clerk brings in another jury note.)**

23 **THE COURT:** Here's the note:

24 "We are not going to come to a unanimous  
25 decision regarding Myers. We have decided on

1           Boone."

2           So this question appears to be irrelevant.

3           **MS. COSTANTIN:** I would agree, Judge. I would agree  
4 with you.

5           **THE COURT:** Show them, please.

6           *(Deputy Clerk showing jury note to counsel.)*

7           **THE COURT:** I'm still wondering if I should send up  
8 this note because they still have a question.

9           **MS. COSTANTIN:** Judge, I believe if they've decided,  
10 they've decided.

11          **THE COURT:** Well, but maybe they --

12          **MS. COSTANTIN:** Would you want to send them a note  
13 that says: "Do you want us to answer your first note?"

14          **THE COURT:** Someone has a suggestion for a change, no  
15 one --

16          **MS. COSTANTIN:** Judge, my suggestion was going to be:

17                "Only if you find defendant, Dustin Boone,  
18 guilty of aiding and abetting the commission  
19 of the crime of deprivation of civil rights as  
20 charged in Count One will you proceed to the  
21 special findings. The special findings ask  
22 which, if any, of the following he aided and  
23 abetted: One, bodily injury resulted; two,  
24 the conduct included the use of a dangerous  
25 weapon, to wit, a riot baton."

1           That's what I was proposing to send back.

2           **THE COURT:** I would send that note up unless there's  
3 an objection.

4           **MR. KILGORE:** Judge, I would ask that you respond,  
5 "You should be guided by the instructions," but if you're  
6 going to send that note back, I would ask that it track the  
7 language of the instruction and change the word "occurred"  
8 to "resulted."

9           **MS. COSTANTIN:** Didn't I say "resulted"?

10          **MR. KILGORE:** I'm just reading from what you said.

11          **MS. COSTANTIN:** I'm -- my proposal is different. My  
12 proposal's:

13                "Only if you find defendant, Dustin Boone,  
14 guilty of aiding and abetting the commission  
15 of the crime of deprivation of civil rights as  
16 charged in Count One will you proceed to the  
17 special findings.

18                "The special findings ask which of the  
19 following he aided and abetted:

20                "The first one is bodily injury resulted;  
21 and the second is, the conduct included the  
22 use of a dangerous weapon, to wit, a riot  
23 baton."

24          **MR. KILGORE:** If you're going to respond --

25          **MS. COSTANTIN:** Judge, can we approach?

1           **THE COURT:** Sure.

2                               \*   \*   \*   \*

3           **(Discussion held at sidebar between the Court and**  
4           **counsel as follows:)**

5           **MS. COSTANTIN:** Judge, I generally don't know if we  
6 should be responding to their note if they now say they have  
7 a decision. I just don't know.

8           **THE COURT:** The reason I think we should answer the  
9 question -- it makes all the difference in the world. If  
10 they find him guilty, they need to know really what those  
11 two options are because it's always been confusing to me.

12           **MS. COSTANTIN:** Judge, then given that, this would be  
13 what I would ask the Court to instruct in response to that  
14 question.

15           **THE COURT:** Okay.

16                       "Only if you first find defendant,  
17                       Dustin Boone, guilty of aiding and abetting  
18                       the commission of the crime of deprivation of  
19                       civil right as charged in Count One, will you  
20                       proceed to the special findings.

21                       "The special findings are, ask which of" --  
22                       Now, should it say, "which"? I mean, I guess they  
23 can --

24           **MS. COSTANTIN:** You're right. It could say, "which,  
25 if any."

1           **THE COURT:** Now, just -- I'm going to read it from the  
2 start:

3                   "Only if you first find defendant,  
4 Dustin Boone, guilty of aiding or abetting the  
5 commission of the crime of deprivation of  
6 civil rights as charged in Count One, will you  
7 proceed to the special findings.

8                   "The special findings ask which of the  
9 following he aided and abetted" -- "which, if  
10 any, of the following he aided and abetted."  
11 And then it's, "bodily injury resulting," and  
12 then the second line is, "the conduct included  
13 the use of a dangerous weapon, to wit, a riot  
14 baton."

15           Sarah has beautiful handwriting. We don't have time  
16 to type it.

17           **MS. COSTANTIN:** Thanks. It's just easier to talk  
18 about it at sidebar.

19           *(End of discussion at sidebar.)*

20                               \*   \*   \*   \*

21           **THE COURT:** Is this correct as discussed off the  
22 record?

23           **MS. COSTANTIN:** Yes, Your Honor.

24           **MR. KILGORE:** Yes, Your Honor.

25           **MS. COSTANTIN:** I thought we were on the record.

1           **THE COURT:** We were on the record. I meant when we  
2 had the last -- I want to read it into the record:

3                   "Only if you find defendant, Dustin Boone,  
4 guilty of aiding and abetting the commission  
5 of the crime of deprivation of civil rights as  
6 charged in Count One, will you proceed to the  
7 special findings.

8                   "The special findings ask which, if any, of  
9 the following he aided and abetted." One,  
10 "bodily injury resulted"; line, "the conduct  
11 included the use of a dangerous weapon, to  
12 wit, a riot baton."

13           Would you take this up, please.

14           Court's in recess. I'll notify you as soon as I have  
15 any other information.

16           **(Court recessed.)**

17           **THE COURT:** About five minutes ago -- it is now  
18 3:35 -- the team clerk, Kelley Shirley, went up and before  
19 she -- tell me if I'm incorrect. Before she got to the jury  
20 room where she was going make an inquiry at my request, she  
21 saw someone coming out.

22           **DEPUTY CLERK:** Yes. They were on like a restroom  
23 break.

24           **THE COURT:** They were on restroom break.

25           **DEPUTY CLERK:** They handed that to Rhonda and Rhonda

1 handed it to me.

2 **THE COURT:** It is:

3 "We will not be able to unanimously agree  
4 on Myers Count Two on both sides are firmly  
5 set."

6 It's a little confusing. Looks like it was a period  
7 after "Count" and then, "Two on both sides are firmly set."  
8 Okay. You were --

9 **MR. ROSENBLUM:** Yes, Your Honor. I would ask, on  
10 behalf of Mr. Myers, if the Court officially declares a  
11 mistrial with respect to Mr. Myers. And with respect to --  
12 I think Mr. Kilgore can speak on behalf of Mr. Boone.

13 **THE COURT:** Okay. Well, first, I would not be  
14 inclined to do so until after we get the jury in the box and  
15 see what they actually --

16 **MR. ROSENBLUM:** I would agree with that.

17 **THE COURT:** Anything, Mr. Kilgore?

18 **MR. KILGORE:** Judge, I was going ask, on behalf of  
19 Mr. Boone, that the jury continue to deliberate until they  
20 reach a verdict.

21 **THE COURT:** Yeah.

22 **MS. COSTANTIN:** Judge, I believe the jury in a  
23 previous note indicated they already had a verdict or a  
24 decision regarding Mr. Boone, so I would just ask that you  
25 receive the jury's verdict on that count, and then if they



1 are hung on the other count, then declare a mistrial as to  
2 Mr. Myers.

3 **THE COURT:** No, no, no. That's not even close. What  
4 happened was, we agreed on another instruction that was sent  
5 up to the jury to clarify or hopefully clarify the last part  
6 of verdict form on Count 1, and so they haven't -- I have  
7 not received information that they have decided the guilt or  
8 innocence of Mr. Boone. The note says something -- "We have  
9 decided on Boone," but that was before we sent up -- I sent  
10 up the other clarifying instruction. So I would not under  
11 any circumstances declare that the jury has resolved the  
12 issue as to Mr. Boone.

13 **MS. COSTANTIN:** So, okay. You intend to send up -- it  
14 says, "continue deliberating on."

15 **THE COURT:** Well, I'm going to take Mr. Kilgore's  
16 suggestion that we allow the jury to deliberate on  
17 Mr. Boone. Obviously, we have no firm indication what they  
18 will do after they see the clarifying instruction as to the  
19 two supplemental findings on the verdict form, so I'm going  
20 to allow them to take whatever time they need until they  
21 tell me they have a verdict.

22 **MR. ROSENBLUM:** And with respect to Mr. Myers, are you  
23 planning on declaring a mistrial?

24 **THE COURT:** Not at this time. Not until I hear it  
25 from the jury that they are unable to reach a unanimous

1 verdict as to Mr. Myers.

2 **MR. ROSENBLUM:** Wasn't that that the last note,  
3 Your Honor?

4 **THE COURT:** I want the jury in the box on the record  
5 telling me what they're going to do. I'm not going to take  
6 the notes as --

7 **MR. ROSENBLUM:** So we're going hear from the jury now?

8 **THE COURT:** No. We're going to hear from the jury  
9 when they say they've finally reached their final decisions.  
10 We don't know what that is yet.

11 **MS. COSTANTIN:** What's the proposed note to send to  
12 them now, Judge? I'm sorry.

13 **THE COURT:** Well, we -- one of my law clerks, who has  
14 excellent handwriting, wrote the note out, "we agree" -- do  
15 you have it?

16 **MS. COSTANTIN:** Judge, I understand what was said  
17 before. I'm just saying, what do you plan to send back in  
18 response to the note?

19 **THE COURT:** I don't plan to send anything back.

20 **MR. ROSENBLUM:** Your Honor, could we approach?

21 \* \* \* \*

22 *(Discussion held at sidebar between the Court and*  
23 *counsel as follows:)*

24 **DEPUTY CLERK:** Judge, they have the original. There's  
25 a copy of it.

1           **MR. ROSENBLUM:** Given the last note where the jury has  
2 again indicated they are at serious loggerheads with respect  
3 to Mr. Myers, I would ask the Court to bring the jury down  
4 and declare a mistrial with respect to Mr. Myers, which  
5 would not affect their ability to continue to deliberate  
6 Mr. Boone if they so choose.

7           At this point I think there's some confusion. I think  
8 the jury may have some confusion. Certainly I have some  
9 confusion as to what they're instructed to do. And I'm  
10 concerned that if they perceive a lack of response or lack  
11 of accepting their decision that they cannot reach a  
12 verdict, as instructions to continue to deliberate, that  
13 could, in fact, result in a coerced verdict with respect to  
14 Mr. Myers. That would be -- that's my concern.

15           **THE COURT:** Well, one possible solution to that, we  
16 send up a note saying, "I understand that you have reached a  
17 verdict as to Mr. Boone and that you are continuing to  
18 deliberate on the" -- on Count 2 -- on Count 1.

19           **MR. ROSENBLUM:** I think the --

20           **MS. COSTANTIN:** No.

21           **THE COURT:** Well, I'm not going to do anything.

22           **MR. ROSENBLUM:** I think that you just made a -- got  
23 them reversed. I would ask that the Court say, "I  
24 understand that you cannot reach a verdict with respect to  
25 Mr. Myers on Count 2, and you wish to continue to deliberate

1 with respect to Mr. Boone." You just had the names wrong.

2 **DEPUTY CLERK:** I think you just said Boone and you  
3 meant Myers.

4 **THE COURT:** Well, let's get it straight. The first  
5 verdict as to Count 1 is Boone; Count 2 is Myers. And I'm  
6 going send a note back saying.

7 "I understand you have reached a verdict --

8 "I understand you cannot agree on a verdict  
9 of guilty or not guilty to Mr. Myers on  
10 Count 2. I understand you are continuing to  
11 deliberate on Count 1."

12 **MS. COSTANTIN:** I'm fine with that, Judge.

13 **MR. ROSENBLUM:** I'm fine with that.

14 **THE COURT:** Let me write it out and you can look at it  
15 again.

16 Since the other form was in perfect handwriting --  
17 where is she? I'm going to ask her to write it; otherwise,  
18 they may say, well, what's this? The last one you could  
19 read. This one you can't.

20 "I understand you are unable to reach a  
21 verdict on Count 2. I understand you are  
22 still deliberating on Count 1."

23 **MR. ROSENBLUM:** The only thing I would ask, for  
24 clarification, semicolon, Mr. Myers, or Defendant Myers,  
25 Count 1.

1           **MS. COSTANTIN:** Defendant Boone. I think that's fine.  
2 I think that's a good idea.

3           **THE COURT:** It reads:

4                   "I understand you are unable to reach a  
5 verdict on Count Two, Mr. Myers. I understand  
6 you are still deliberating on Count One,  
7 Mr. Boone.

8           **(End of discussion at sidebar.)**

9                               \* \* \* \*

10          **THE COURT:** To satisfy curiosity on a recent note, I'm  
11 now sending back another note to the jury stating:

12                   "I understand you're unable to reach a  
13 verdict on Count Two on Mr. Myers. I  
14 understand you are still deliberating on  
15 Count one on Mr. Boone."

16          The confusion was that the jury might be waiting up  
17 there after the series of notes coming back and forth and  
18 are unable to -- maybe just waiting. So this is intended to  
19 clarify the notes.

20          **(Court recessed.)**

21          **(Proceedings reconvened in open court with the**  
22           **defendants present.)**

23          **THE COURT:** Ms. Shirley is going to be bringing in the  
24 two alternates in just a moment, so when it's appropriate,  
25 everyone rise when they come in. They've been very patient.

1 Yesterday they spent the entire day in chambers and today in  
2 the jury assembly room, so they've been very willing to be  
3 present.

4 There's another note, and your request was well  
5 considered because on the jury instruction that I sent up:

6 "I understand you're unable to reach a  
7 verdict on Count 2, Mr. Myers. I understand  
8 you're still deliberating on Count One,  
9 Mr. Boone."

10 They sent a note back:

11 "No, we have made a decision on Count one."

12 So the court clerk is instructed to return the jury to  
13 the jury box, please.

14 ***(The alternate jurors enter the courtroom.)***

15 **THE COURT:** We all know it's been a long two days for  
16 you. We've interacted on several occasions and I've come to  
17 appreciate even more your dedicated service to this case.  
18 It's always awkward when you put in all the time and do not  
19 get to finish the work, but you were available, and that's  
20 what was required.

21 So, thank you so much on behalf of all the court  
22 personnel. We appreciate your work and your effort.

23 ***(Proceedings reconvened in open court with the***  
24 ***defendants and the jury present.)***

25 ***(The Deputy Clerk hands the verdict forms to the***

1           **Court.)**

2                           **VERDICT**

3           **THE COURT:** Ladies and gentlemen, I have now examined  
4 the verdicts. It is the practice here in every case for the  
5 law clerk to go around and ask each of you individually,  
6 after I state what your verdict is, is this your true and  
7 correct verdict. So you're not -- this is not anything  
8 unusual; it just happens in this case.

9           On Count 1, Defendant Dustin Boone:

10                   "We, the jury find the defendant,  
11 Dustin Boone, guilty of aiding and abetting  
12 the commission of a crime of deprivation of  
13 civil rights as charged in Count 1 of the  
14 indictment."

15           Under Special Findings, "bodily injury resulted" is  
16 checked; "the conduct included the use of a dangerous  
17 weapon, to wit, a riot baton" is checked.

18           Now would you please poll the jury as to their  
19 verdict.

20           **DEPUTY CLERK:** Juror Number 1, is this your true and  
21 correct verdict?

22           **JUROR NO. 1:** Yes, it is.

23           **DEPUTY CLERK:** Juror Number 2, is this your true and  
24 correct verdict?

25           **JUROR NO. 2:** Yes.

1           **DEPUTY CLERK:** Juror Number 3, is this your true and  
2 correct verdict?

3           **JUROR NO. 3:** Yes.

4           **DEPUTY CLERK:** Juror Number 4, is this your true and  
5 correct verdict?

6           **JUROR NO. 4:** It is.

7           **DEPUTY CLERK:** Juror Number 5, is this your true and  
8 correct verdict?

9           **JUROR NO. 5:** Yes, it is.

10          **DEPUTY CLERK:** Juror Number 6, is this your true and  
11 correct verdict?

12          **JUROR NO. 6:** It is.

13          **DEPUTY CLERK:** Juror Number 7, is this your true and  
14 correct verdict?

15          **JUROR NO. 7:** It is.

16          **DEPUTY CLERK:** Juror Number 8, is this your true and  
17 correct verdict?

18          **JUROR NO. 8:** Yes.

19          **DEPUTY CLERK:** Juror Number 9, is this your true and  
20 correct verdict?

21          **JUROR NO. 9:** It is.

22          **DEPUTY CLERK:** Juror Number 10, is this your true and  
23 correct verdict?

24          **JUROR NO. 10:** It is.

25          **DEPUTY CLERK:** Juror Number 11, is this your true and



1 correct verdict?

2 **JUROR NO. 11:** It is.

3 **DEPUTY CLERK:** Juror Number 12, is this your true and  
4 correct verdict?

5 **JUROR NO. 12:** It is.

6 **THE COURT:** Received and filed.

7 On Count 2:

8 "We, the jury, find the defendant,  
9 Christopher Boone, undecided of the crime of  
10 destruction of evidence in the federal  
11 investigation charged in Count 2 the  
12 indictment."

13 And it's signed by the foreperson. Would you poll the  
14 jury, please.

15 **MR. ROSENBLUM:** Judge, is this -- Judge -- I'm sorry.

16 **DEPUTY CLERK:** It's Christopher Myers, correct.

17 **THE COURT:** Yes. What I'm asking -- I'm not -- I  
18 should have explained this. On this one I'm not asking you  
19 individually if this is your true and correct verdict  
20 because I know that there's a disagreement among you on this  
21 one. I'm just asking, is this a true and correct verdict of  
22 the jury, that's undecided. Understood?

23 **(Jurors nodding.)**

24 **DEPUTY CLERK:** Juror Number 1, is this the true and  
25 correct verdict of the jury?

1           **JUROR NO. 1:** Yes.

2           **DEPUTY CLERK:** Juror Number 2, is this the true and  
3 correct verdict of the jury?

4           **JUROR NO. 2:** Yes, it is.

5           **DEPUTY CLERK:** Juror Number 3, is this the true and  
6 correct verdict of the jury?

7           **JUROR NO. 3:** It is.

8           **DEPUTY CLERK:** Juror Number 4, is this the true and  
9 correct verdict of the jury?

10          **JUROR NO. 4:** Yes.

11          **DEPUTY CLERK:** Juror Number 5, is this the true and  
12 correct verdict of the jury?

13          **JUROR NO. 5:** It is.

14          **DEPUTY CLERK:** Juror Number 6, is this the true and  
15 correct verdict of the jury?

16          **JUROR NO. 6:** Yes.

17          **DEPUTY CLERK:** Juror Number 7, is this the true and  
18 correct verdict of the jury?

19          **JUROR NO. 7:** Yes.

20          **DEPUTY CLERK:** Juror Number 8, is this the true and  
21 correct verdict of the jury?

22          **JUROR NO. 8:** Yes.

23          **DEPUTY CLERK:** Juror Number 9, is this the true and  
24 correct verdict of the jury?

25          **JUROR NO. 9:** Yes.

1           **DEPUTY CLERK:** Juror Number 10, is this the true and  
2 correct verdict of the jury?

3           **JUROR NO. 10:** Yes.

4           **DEPUTY CLERK:** Juror Number 11, is this the true and  
5 correct verdict of the jury?

6           **JUROR NO. 11:** Yes.

7           **DEPUTY CLERK:** Juror Number 12, is this the true and  
8 correct verdict of the jury?

9           **JUROR NO. 12:** Yes.

10          **THE COURT:** I would ask Mr. Boone and Mr. Kilgore to  
11 appear at the microphone, please.

12          *(Counsel approach the podium.)*

13          **THE COURT:** Mr. Boone is on bond at the present time,  
14 and I would expect that to continue at this time. Any  
15 objection by the United States?

16          **MS. COSTANTIN:** No, Your Honor.

17          **THE COURT:** That bond is continued at this time.

18          **MR. KILGORE:** Thank you, Your Honor.

19          **THE COURT:** Yes, sir. Are there any other matters to  
20 be brought before the Court at this time?

21          **MR. KILGORE:** Nothing else.

22          **MR. ROSENBLUM:** No, Your Honor.

23          **MS. COSTANTIN:** No, Your Honor.

24          **THE COURT:** Court's in recess.

25          *(Proceedings adjourned at 4:09 p.m.)*

**REPORTER'S CERTIFICATE**

I, Laura A. Esposito, Registered Professional Reporter and Certified Realtime Reporter, hereby certify that I am a duly appointed Official Court Reporter for the United States District Court for the Eastern District of Missouri.

I further certify that the foregoing is a true and accurate transcript of the proceedings held in the above-entitled case, that said transcript contains pages 1 through 27, inclusive, and was delivered electronically. This reporter takes no responsibility for missing or damaged pages of this transcript when same transcript is copied by any party other than this reporter.

Dated at St. Louis, Missouri, this 7th day of September 2021.

*Laura A. Esposito*  
\_\_\_\_\_  
Laura A. Esposito, RPR, CRR, CRC  
Official Court Reporter